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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,250	07/19/2001	Rod Mancisidor	WHISPERWIRE-03R	8686
26874	7590	06/22/2005	EXAMINER	
FROST BROWN TODD, LLC 2200 PNC CENTER 201 E. FIFTH STREET CINCINNATI, OH 45202			THAI, CANG G	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/909,250

Applicant(s)

MANCISIDOR ET AL.

Examiner

Cang G. Thai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 41-46 and 51 is/are pending in the application.
- 4a) Of the above claim(s) 9-40, 47-50 & 52-65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 41-46, and 51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Priority*

1. It is noted that this application appears to claim subject matter disclosed in prior Application No. 60/219,783, filed July 19, 2000. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e) or 120. See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all non-provisional applications. Also, the current status of all non-provisional parent applications referenced should be included.

If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C.

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119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

#### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on July 19, 2001 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statement.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-8, 41-45, 46 and 51 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,070,149 (TAVOR ET AL).

As for claim 1, TAVOR discloses a method for recommending a product using an expert system, the method comprising:

determining problem domain information via interaction with an agent {See Column 3, Lines 19-20, wherein this reads over "the user navigates via the Web browser to a site where the system operates"};

determining need information of a user via interaction with the agent {See Column 3, Lines 20-24, wherein this reads over "the Internet sales representative system of the present invention then interacts with the user, advises, guides, consults, suggests, comments and negotiates with the user regarding items available for sale or any other topic to be conveyed"};

inputting the user need information into the expert system {See Column 3, Lines 24-25, wherein this reads over "the system offers alternatives in case the requested item is not available"};

transforming the user need information into a trait, the trait being characteristic of a product of relevance to the user using the expert system, the product of relevance being selected from a plurality of available products {See Column 3, Lines 25-27,

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wherein this reads over “the system works to convince the user to buy certain products and generally promotes the products”}; and

rating a product within the plurality of available products using the expert system {See Column 3, Lines 37-38, wherein this reads over “the system follows a line of reasoning in order to sell to the end user”}.

As for claim 2, TAVOR discloses the method of claim 1, wherein an agent determines the need information of the user and inputs the user need information into the expert system via a graphical user interface serviced by an agent computer {See Column 3, Lines 54-58, wherein this reads over “the “live” sales representative is preferably briefed regarding the customer’s interests (if any were demonstrated), such that the session will preferably continue smoothly from the logic based system to the chat mode”}.

As for claim 3, TAVOR discloses the method of claim 1, further comprising:  
summarizing the ratings of the plurality of available products {See Column 3, Lines 31-37, wherein this reads over “the system accompanies the customer from the initial stage of requesting an Internet sales representative, through the stage of determining the needs of the customer, guiding the customer to the desired products while maintaining a product and market advisory, and generally suggesting or recommending, and discussing or commenting with regard to the product through the purchasing process”}; and

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providing explanation of the ratings of the plurality of available products {See Column 3, Lines 37-38, wherein this reads over “the system follows a line of reasoning in order to sell to the end user”}.

As for claim 4, TAVOR discloses the method of claim 3, wherein the summary of the ratings of the plurality of available products comprises at least one of a recommended solution, a compatible solution, and a not recommended solution {See Column 3, Lines 24-27, wherein this reads over “the system offers alternatives in case the requested item is not available. The system works to convince the user to buy certain products and generally promotes the products”}.

As for claim 5, TAVOR discloses the method of claim 1, wherein the plurality of available products comprises a service {See Column 3, Lines 25-27, wherein this reads over “The system works to convince the user to buy certain products and generally promotes the products”}.

As for claim 6, TAVOR discloses the method of claim 1, further comprising communicating the rating from the agent to a customer {See Column 3, Lines 31-37, wherein this reads over “the system accompanies the customer from the initial stage of requesting an Internet sales representative, through the stage of determining the needs of the customer, guiding the customer to the desired products while maintaining a product and market advisory, and generally suggesting or recommending, and discussing or commenting with regard to the product through the purchasing process”}; and

wherein the rating of the product within the plurality of available products using the expert system is performed in real time {See Column 3, Lines 54-55, wherein this reads over “the “live” sales representative is preferably briefed regarding the customer’s interests”}.

As for claim 7, TAVOR discloses the method of claim 1, wherein the expert system employs a fuzzy value in performing rating of a product {See Column 3, Lines 25-27, wherein this reads over “the system works to convince the user to buy certain products and generally promotes the products”}.

As for claim 8, TAVOR discloses the method of claim 1, wherein the expert system employs a crisp value in performing rating of the product {See Column 3, Lines 25-27, wherein this reads over “the system works to convince the user to buy certain products and generally promotes the products”}.

As for claim 41, TAVOR discloses an expert system that is operable for recommending a product, the expert system comprising:

a computer network {See Fig. 18, Element 210};

an agent interface, communicatively coupled to the computer network, comprising a graphical user interface {See Fig. 18, Element 208};

a product database, communicatively coupled to the computer network, that contains a plurality of available products, the product database being communicatively coupled to a plurality of providers of the plurality of available products thereby allowing updating of the product database in real time {See Fig. 18, Element 204}; and



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an expert system, communicatively coupled to the computer network, that is operable to rate at least two available products within the plurality of available products using dynamic calculation and based on a customer need {See Fig. 18, Element 204};

wherein an agent and a customer interact in real time whereby the customer communicates a customer need to the agent and the agent accesses the functionality of the expert system, via the graphical user interface, to perform selection of an available product from the product database based on the rating of the at least two available products during the customer-client interaction {See Fig. 20, Element 232};

the expert system generates output comprising a recommended solution and a compatible solution and presents the output to the agent via the graphical user interface, each of the recommended solution and a compatible solution being selected from the plurality of available products within the product database, the recommended solution having a rating that is higher than the rating of the compatible solution {See Fig. 1, Element 10}; and

the agent communicates the recommended solution and the compatible solution to the customer in real time after the expert system generates the output {See Fig. 2, Element 46}.

As for claim 42, TAVOR discloses the expert system of claim 41, wherein at least one of the recommended solution and the compatible solution comprises at least one of a data network solution and an Internet access solution {See Fig. 4, Element 70}.

As for claim 43, TAVOR discloses the expert system of claim 41, wherein the output further comprises an explanation for why the recommended solution was selected by the expert system {See Fig. 4, Element 68}.

As for claim 44, TAVOR discloses the expert system of claim 41, wherein the expert system employs at least one of a dedicated Internet access guidance engine and a data network guidance engine to rate the at least two available products within the plurality of available products {See Fig. 5, Element 44}.

As for claim 45, TAVOR discloses the expert system of claim 41, wherein agent receives information concerning at least one of the available products within the plurality of available products to the agent via the graphical user interface {See Fig. 7, Element 96}.

As for claim 46, TAVOR discloses a plurality of software instructions stored on a media that, upon execution by a processing circuitry, are operable to recommend a product by using an expert system, comprising:

- a set of instructions executed by the processing circuitry that determines problem domain information during interaction with an agent {See Fig. 2, Element 38};

- a set of instructions executed by the processing circuitry that determines need information of a user during interaction with the agent {See Fig. 2, Element 32};

- a set of instructions executed by the processing circuitry that inputs the user need information into the expert system {See Fig. 2, Element 40};

- a set of instructions executed by the processing circuitry that transforms the user need information into a trait, the trait being characteristic of a product of relevance to the

user as determined using expert system processing that is performed by the expert system, the product of relevance being selected from a plurality of available products {See Fig. 2, Element 44}; and

a set of instructions executed by the processing circuitry that rates a product within the plurality of available products using the expert system {See Fig. 2, Element 46}.

As for claim 51, THAI discloses a plurality of software instructions stored on a media that, upon execution by a processing circuitry, are operable to recommend a product, comprising:

a set of instructions executed by the processing circuitry that performs expert system processing to rate at least two available products within a plurality of available products using dynamic calculation and based on a customer need {See Fig. 7, Element 98};

a set of instructions executed by the processing circuitry that enable an agent and a customer to interact in real time whereby the customer communicates a customer need to the agent and the agent accesses the functionality of the expert system processing, via the graphical user interface, to perform selection of an available product from the product database based on the rating of the at least two available products during the customer-client interaction {See Fig. 15, Element 174};

a set of instructions executed by the processing circuitry that generates output comprising a recommended solution and a compatible solution and presents the output to the agent via the graphical user interface, each of the recommended solution and a

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compatible solution being selected from the plurality of available products within the product database, the recommended solution having a rating that is higher than the rating of the compatible solution {See Fig. 15, Element 80}; and

a set of instructions executed by the processing circuitry that prompts the agent to communicate the recommended solution and the compatible solution to the customer in real time after the expert system processing generates the output {See Fig. 16, Element 184}.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

I. U.S. Patent:

- 1) U.S. Patent No. 5,784,539 (LENZ) is cited to teach a quality driven expert system,
- 2) U.S. Patent Application Publication No. 2002/0107824 (AHMED) is cited to teach a system and method of decision making,
- 3) U.S. Patent No. 5,175,800 (GALIS ET AL) is cited to teach an expert and data base system and method for communications network, and
- 4) U.S. Patent No. 4,949,278 (DAVIES ET AL) is cited to teach an expert system architecture.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cang (James) G. Thai whose telephone number is (571) 272-6499. The examiner can normally be reached on 6:30 AM - 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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6/15/05



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